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Attorneys for Plaintiff
United States of America

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CHARLENE BROWN,

Defendant.

CASE NO. 2:02-CR-0431 GEB

**MOTION TO DISMISS AND JOINT MOTION
TO TERMINATE SUPERVISION;
[proposed] ORDER**

In this case, the defendant was found to be incompetent to stand trial, and further was found to be a danger if she were to be released. Ultimately the Court adopted a Certificate of Recovery with respect to the defendant and ordered her conditionally released under the supervision of the Probation Office. Progress reports from the Probation Office indicate the defendant has made substantial progress, and that further treatment and supervision is not warranted.

The United States hereby moves to dismiss the Indictment in the above-referenced case. This motion is unopposed. In addition, the parties jointly move to terminate the defendant's supervision by the United States Probation Office.

A. Procedural History

The defendant was arrested on September 18, 2002, for destruction of government property in violation of 18 U.S.C. § 1361. Docket, No. 1. Specifically, she was detained after starting a fire with a

1 flare gun at Beale Air Force Base. *Id.* On September 26, 2002, she was indicted on a single count of
2 violating 18 U.S.C. Section 844(f)(1), damaging property of the United States by means of fire. Docket,
3 No. 5.

4 On March 21, 2003, the defendant was ordered to undergo a competency examination pursuant
5 to 18 U.S.C. § 4241. Docket, No. 18. On October 6, 2003, the Court granted the government's
6 unopposed motion to commit the defendant to the Bureau of Prisons for an additional period of time.
7 Docket, No. 29. On April 2, 2004, the Court granted a joint motion to commit the defendant for further
8 evaluation and further ordered that the Bureau of Prisons was authorized to administer antipsychotic
9 medications to the defendant, involuntarily if necessary. Docket, No. 42. On August 27, 2004, the
10 Court authorized continuing treatment by the Bureau of Prisons. Docket, No. 50.

11 On November 12, 2004, the Court found the defendant was not competent to stand trial. Docket,
12 No. 62. On November 19, 2004, consistent with 18 U.S.C. § 4246(b), the Court ordered the Federal
13 Medical Center to prepare a report on the issue of whether the defendant's release from custody "would
14 create a substantial risk of bodily injury to another person, or serious damage to property of another."
15 Docket, No. 65. On January 6, 2005, the Court held an evidentiary hearing on this issue. Docket, No.
16 73. On January 7, 2005, the Court issued an Order finding that the defendant's release would create a
17 substantial risk of injury or property damage, and committing her to the custody of the Bureau of
18 Prisons. Docket, No. 77.

19 On August 24, 2005, the Court received a report from the Bureau of Prisons that included a
20 progress report, certificate of recovery, and conditional release plan. Docket, No. 83. On September 16,
21 2005, the Court adopted the certificate of recovery and ordered the defendant released on conditions and
22 under the supervision of the Probation Office. Docket, No. 88.

23 Since the date of the defendant's release, the Probation Office has periodically filed progress
24 reports with the Court. Each of these has indicated good progress by the defendant under supervision.
25 The most recent progress report was submitted on August 31, 2016. That report indicates continued
26 positive progress by the defendant, and it references an attached psychiatric report which indicates that
27 the defendant poses a low risk to the community and that further treatment is not warranted. The
28 Probation Officer recommends that the defendant be discharged from her conditional release.

1 **B. Motion to Dismiss**

2 Pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure, the United States seeks leave
3 of this Court to dismiss the pending indictment against this defendant. Given the age of this case and the
4 defendant's condition when she committed the offense, the government does not have an interest in
5 further pursuing this matter. Further, in light of the defendant's sustained compliance with the
6 conditions of her release and the information set forth in the Probation Officer's latest Progress Report,
7 the government does not see a basis for continued supervision by the Probation Office.

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9 Dated: January 20, 2017

PHILLIP A. TALBERT
United States Attorney

10 /s/ Philip A. Ferrari

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12 Assistant United States Attorney
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1 Dated: January 20, 2017

/s/ LINDA ALLISON

LINDA ALLISON

Counsel for Defendant

CHARLENE BROWN

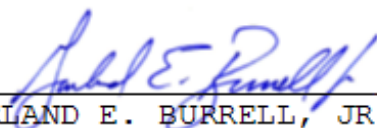
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5 **ORDER**

6 The United States' motion to dismiss is GRANTED and the charge brought against defendant
7 CHARLENE BROWN in the above-referenced case is hereby ordered DISMISSED.

8 In addition, based upon the representations of the parties, the Court finds that the record before it
9 is sufficient to rule on the joint motion to terminate supervision and that, by a preponderance of the
10 evidence, the elimination of the defendant's conditions of release will not create a substantial risk of
11 bodily injury to another person or serious damage to property of another. The parties joint motion to
12 terminate supervision by the Probation Office is GRANTED.

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14 **SO ORDERED:**

15 Dated: January 23, 2017

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18 GARLAND E. BURRELL, JR.

19 Senior United States District Judge
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